

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNQORK INC.,

Plaintiff,

v.

ANIMO SERVICES LLC d/b/a GLORIFI.,

Defendant.

1:22-CV-07762-AKH

**DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT
OF ITS MOTION TO DISMISS THE COMPLAINT**

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
PRELIMINARY STATEMENT	2
ARGUMENT	2
I. THIS COURT LACKS SUBJECT-MATTER JURISDICTION	2
CONCLUSION.....	4
EVIDENCE	

Declaration of Tanya Wallace, Esq., dated October 6, 2022

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Alvarez & Marshal Glob. Forensic & Dispute Servs., LLC v. Cohen-Cole</i> , 14-CV-290, 2014 U.S. Dist. LEXIS 21574 (S.D.N.Y. Feb. 19, 2014)	3
<i>Bartfield v. Murphy</i> , 578 F. Supp. 2d 638 (S.D.N.Y. 2008).....	3
<i>Bayerische Landesbank v. Aladdin Capital Mgmt. LLC</i> , 692 F.3d 42 (2d Cir. 2012).....	3
<i>Cosgrove v. Bartolotta</i> , 150 F.3d 729 (7th Cir. 1998)	3
<i>E.R. Squibb & Sons, Inc. v. Accident & Cas. Ins. Co.</i> , 160 F.3d 925 (2d Cir. 1998).....	2
<i>Handelsman v. Bedford Vill. Assocs. Ltd. Pshp.</i> , 213 F.3d 48 (2d Cir. 2000).....	2, 3
<i>Local 538 United Bhd. of Carpenters and Joiners of America v. United States Fid. & Guar. Co.</i> , 154 F.3d 52 (2d Cir. 1998).....	2
<i>SBL Enters. LLC v. Keystone Capital Corp.</i> , 1:21-cv-4459, 2021 U.S. Dist. LEXIS 95255 (S.D.N.Y. May 19, 2021).....	3
<i>Strawbridge v. Curtiss</i> , 7 U.S. 267 (1806).....	2
<i>Tovar v. Indiana</i> , 11-CV-776, 2011 U.S. Dist. LEXIS 130093 (S.D.N.Y. Nov. 8, 2011)	3
<i>Universal Licensing Corp. v. Paola del Lungo S.p.A.</i> , 293 F.3d 579 (2d Cir. 2002).....	3
Statutes and Rules	
Fed. R. Civ. P. 12(b)(1).....	2

Defendant Animo Services LLC¹ (“Animo” or “Defendant”), submits this memorandum of law in support of its motion to dismiss the Complaint (Doc. No. 1) in its entirety (the “Motion”) pursuant to Fed. R. Civ. P. 12(b)(1).

PRELIMINARY STATEMENT

The Complaint must be dismissed, because this Court lacks subject-matter jurisdiction. Plaintiff Unqork Inc. (“Unqork”) alleges that this Court may exercise subject-matter jurisdiction based solely on diversity of citizenship. Animo is a limited liability company, and therefore takes the citizenship of its member(s). The sole owner/member of Animo is a Delaware corporation. Plaintiff Unqork is also a Delaware corporation. Therefore, Unqork cannot establish diversity of citizenship and this action must be dismissed.

ARGUMENT

I.

THIS COURT LACKS SUBJECT-MATTER JURISDICTION

“The party seeking to invoke the diversity jurisdiction of the court bears the burden of demonstrating that the requirements for jurisdiction have been satisfied.” *Local 538 United Bhd. of Carpenters and Joiners of America v. United States Fid. & Guar. Co.*, 154 F.3d 52, 54 (2d Cir. 1998) (citation omitted). “Diversity jurisdiction requires that ‘all of the adverse parties in a suit . . . be completely diverse with regard to citizenship.’” *Handelsman v. Bedford Vill. Assocs. Ltd. Pshp.*, 213 F.3d 48, 51 (2d Cir. 2000); *see also E.R. Squibb & Sons, Inc. v. Accident & Cas. Ins. Co.*, 160 F.3d 925, 930 (2d Cir. 1998) (holding “complete diversity” “must” exist for purposes of diversity jurisdiction) (citing *Strawbridge v. Curtiss*, 7 U.S. (3 Cranch) 267, 267 (1806)).

¹ Animo denies that it is doing business as “Glorifi” as indicated in the caption.

“For purposes of diversity jurisdiction, an LLC has the citizenship of each of its members.” *Alvarez & Marshal Glob. Forensic & Dispute Servs., LLC v. Cohen-Cole*, 14-CV-290, 2014 U.S. Dist. LEXIS 21574, at *2 (S.D.N.Y. Feb. 19, 2014) (citing *Handelsman v. Bedford Vill. Associates Ltd. P’ship*, 213 F.3d 48, 51-52 (2d Cir. 2000)); *Bartfield v. Murphy*, 578 F. Supp. 2d 638, 650 (S.D.N.Y. 2008); *see also Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998) (“[T]he citizenship of an LLC for purposes of the diversity jurisdiction is the citizenship of its members.”).

Unqork is a “corporation organized under the laws of Delaware. . . .” Cplt. (Doc. No. 1), ¶ 15. Therefore, Unqork is a Delaware citizen. *See Bayerische Landesbank v. Aladdin Capital Mgmt. LLC*, 692 F.3d 42, 48 (2d Cir. 2012) (A corporation, for diversity purposes, “is considered a citizen of the state in which it is incorporated. . . .”).

The sole member and owner of Animo is With Purpose Inc., which is also a corporation organized under the laws of Delaware. *See Declaration of Tanya Wallace*, dated October 6, 2022 (“Wallace Decl.”), ¶ 2. Because With Purpose Inc. is a Delaware citizen, Animo is also a Delaware citizen. *See, e.g., Bayerische Landesbank, N.Y. Branch*, 692 F.3d 42, 49 (2d Cir. 2012) (“a limited liability company [] takes the citizenship of each of its members”).

Unqork cannot establish diversity of citizenship, because Unqork and Animo are both Delaware citizens. Accordingly, this action must be dismissed. *See, e.g., Universal Licensing Corp. v. Paola del Lungo S.p.A.*, 293 F.3d 579, 581 (2d Cir. 2002) (affirming dismissal for lack of diversity); *SBL Enters. LLC v. Keystone Capital Corp.*, 21-cv-4459, 2021 U.S. Dist. LEXIS 95255, at *4 (S.D.N.Y. May 19, 2021) (“An LLC is completely diverse from opposing parties only if all of the members of the LLC are citizens of different states than all opposing parties.”); *Tovar v. Indiana*, 11-CV-776, 2011 U.S. Dist. LEXIS 130093, at *7 (S.D.N.Y. Nov. 8, 2011)

(dismissing complaint for lack of subject matter jurisdiction because complete diversity of citizenship is lacking).

CONCLUSION

Based on the foregoing, Animo respectfully requests that the Court grant this Motion to dismiss the Complaint in its entirety, together with such other and further relief as this Court deems just and proper.

Dated: October 7, 2022
New York, New York

HAYNES AND BOONE, LLP
Attorneys for Animo Services LLC

By: s/Richard D. Rochford/
Richard D. Rochford
Joseph Lawlor
30 Rockefeller Plaza, 26th Floor
New York, New York 10112
Telephone: (212) 659-4984
richard.rochford@haynesboone.com
joseph.lawlor@haynesboone.com